

Appeals Process and Alternatives

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COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

APPEALS
PROCESS AND ALTERNATIVES

APPEALS – THEIR PURPOSE AND NECESSITY

The County zoning process provides hearings and decisions on applications in an efficient and timely manner within the constraints of California land use law. The legislative authority for the County is the Board of Supervisors. However, the Board does not personally hear every application. Consequently, it has established a system of review to act on the numerous requests within its jurisdiction. In planning matters, the various levels of authority include the Planning Commission, Zoning Hearing Officer, Community Development Director and staff. Examples of the types of applications presented to these Boards or individuals include:

- Planning Commission – General Plan elements and amendments, zoning amendments, major subdivisions.
- Zoning Hearing Officer – Use permits, variances, minor subdivisions, confined animal permits.
- Design Review Committee – Design Review in designated areas.
- Community Development Director – Selected Coastal Development Permits, lot line adjustments, interpretations of codes.

The law provides that an appeal may be filed to the next level of decision-making authority. For example, an applicant, neighbor, or other interested party dissatisfied with the Community Development Director's decision (or condition imposed) on a permit may file an appeal to the Planning Commission. If the appellant is still dissatisfied with the Planning Commission's decision, he/she may file a further appeal to the Board of Supervisors. The Board's action is the final local administrative decision.

MEDIATION SERVICES

The appeal of a permit decision must focus on planning and environmental issues over which the County appeal body has discretion. In many cases, the object of concern for an appellant is not something that the County can control or regulate; it may be something for which a public forum and administrative decision is seen as unsatisfactory. A discussion with Planning staff may help you define your issues of concern and whether or not the appeal process is appropriate.

Perhaps you have long-standing disagreements with your neighbors over a variety of issues, or you are more concerned about activities on the property than the actual construction the County is reviewing. In these cases, you should consider other avenues of resolution offered by San Mateo County.

One resource is the Peninsula Conflict Resolution Center. This program offers professional mediation services to help resolve neighborhood conflicts in an informal, confidential setting, specializing in neighborhood problems, damage to property, noise, and parking issues. The Center can be reached at 650/513-0330.

It should be noted that even if you file an appeal, Planning staff may recommend or the Board of Supervisors may require that the parties attempt mediation to resolve their dispute.

YOUR APPLICATION FOR AN APPEAL

Should you decide to appeal a planning decision, certain information must be supplied so that the appeal can be reviewed by the staff and the decision body which must act on the appeal. You will be asked to fill out an application form on which you must state:

- The specific permit or condition you are appealing.
- A detailed statement of your basis for appeal.
- Other information which supports your appeal.

The above information will provide the appeals board or individual with material to evaluate your request. The Planning Department will supply all of the original case documentation to the appeals board or individual. The burden of proving an error in judgment by the original decision-maker is your responsibility; therefore, the material and information which you submit should be directed toward substantiating your contentions.

LIMITATIONS AND RESTRICTIONS ON APPEAL

The law limits the time in which appeals may be filed. Generally, a complete appeal application must be submitted to the County staff within 10 working days after the initial decision has been made. The appeals board (Planning Commission or Board of Supervisors) has three options when it considers an appeal:

- It can review the record and minutes of the original proceedings, and either affirm or reverse the previous action.
- It may refer the item back to the original decision-maker.
- It may set the matter for hearing and decide the issue de novo (as if no other hearing had been held).

Certain Coastal Development Permits are appealable to the California Coastal Commission after all local hearings have been completed. This process is separate from the County appeal process; appeals to the Coastal Commission must be filed with the San Francisco Office (415/904-5260).

WHO SHOULD PREPARE THE APPLICATION MATERIALS?

Most applicants prepare their own materials for an appeal submittal. However, you may wish to secure professional help from an attorney or designer (planner, engineer, architect, building designer, landscape architect, etc.). The Planning Department will not provide recommendations for specific professionals. However, you should select a firm or person who is well qualified, familiar with County requirements, and specifically fits the need for which he/she is being retained. Emphasis should be placed on providing correct, well-documented, readable material which supports your appeal.

WHERE DO I START AND HOW LONG WILL IT TAKE?

Since you are already familiar with the project, you should begin by deciding if you are appealing the approval/denial of the project, or a specific condition of approval. The entire process usually takes about two to three months from the time you submit the appeal to when the hearing is scheduled. When your appeal has been accepted, it will be assigned to that project planner who will be your primary contact during the processing.

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